

1 last three words.

2 WITNESS: Yeah, but there's some -- evidently --

3 JUDGE MILLER: Oh, something below it?

4 WITNESS: Yeah.

5 JUDGE MILLER: All right. Okay. All right.

6 WITNESS: Something's down there.

7 JUDGE MILLER: Yes. All right.

8 MR. ALPERT: I had to get a copy directly from the
9 Secretary of State's office, and just if I can just clear this
10 up, just for the sake of clarity of the record --

11 MR. KRAVETZ: Let's show it to counsel.

12 MR. ALPERT: Excuse me?

13 MR. KRAVETZ: Do you want to show it to counsel
14 first as a courtesy?

15 MR. ALPERT: I'm going to read it to you. A copy of
16 the identical document I received by fax from the Secretary of
17 State's office, the bottom legend reads in entirety, "Note:
18 Ohio law does not permit one officer to sign in two
19 capacities. Two separate signatures are required, even if
20 this necessitates the election of a second officer, before the
21 filing can be made.

22 JUDGE MILLER: All right. Okay.

23 BY MR. ALPERT:

24 Q Do you have any documents, whether it's the bylaws
25 or a stockholders agreement or any other documents, which in

1 any way restricts the ability of your son to act in any
2 capacity on behalf of the corporation, such as an employee of
3 the corporation?

4 A Shareholders agreement I believe is all we have.

5 Q Is there any provision in there which in any way
6 restricts the ability of him to work as a, as an employee of
7 the corporation?

8 A Well, since I am the sole director and officer, I
9 suppose I'd have to hire him before he could do that legally.

10 MR. KRAVETZ: Your Honor, is this a memory test or
11 can he show Mr. Wilburn -- I have no objection as long as
12 we're clear as to what he's saying.

13 JUDGE MILLER: The problem that's been bothering me
14 a little bit is the, the, is the vagueness of the question
15 that's being propounded, because I read "Bernard P. Wilburn
16 further agrees that he shall not transact any business of or
17 in the name of the corporation, nor bind or obligate the
18 corporation, that he shall not serve as employee, independent
19 contractor, nor agent of the corporation."

20 MR. ALPERT: Actually, Your Honor --

21 JUDGE MILLER: So I don't understand, I don't
22 understand what you're questioning him about.

23 MR. ALPERT: Actually, Your Honor, you're right. I
24 was after a question -- I had neglected to recall this
25 particular document. I withdraw the question.

1 BY MR. ALPERT:

2 Q How many hours were you intending to work at the
3 station in your original application, when you first filed
4 your application?

5 A For myself, a minimum of 20.

6 Q And your son was going to work?

7 A The same, the same.

8 Q Forty hours? Now -- were you going to continue to
9 practice law?

10 A I was intending even then to phase out of it, so,
11 no, eventually I'll get out of it anyway, whether or not I get
12 into the station.

13 Q Now, your son, would he, to the best of your
14 knowledge, engage in the full-time practice of law?

15 A He intends to continue. Did and does.

16 Q At that time --

17 A Yes.

18 Q The 20 hours per week that he was going to work at
19 the station, it's your understanding that would have been in
20 addition to the 40-hour-per-week commitment that he has --

21 A That's right, that's right.

22 Q -- with the legal profession?

23 A That's right.

24 Q The partnership. Now, there came a time when that
25 changed when you decided -- when it was decided that you were

1 going to be the sole person. Instead of 20 and 20 -- Is that
2 correct?

3 A That's correct.

4 Q And did someone advise you of that?

5 A Mr. Kravetz told us that.

6 MR. KRAVETZ: Question -- Once again the vagueness
7 of the question, advise, is that in terms of a directive or in
8 terms of --

9 JUDGE MILLER: Well, rephrase the question and ask
10 him again.

11 MR. ALPERT: Okay.

12 BY MR. ALPERT:

13 Q At one point somebody advised you that it would be
14 beneficial to you to change that into one person having the
15 40-hour-per-week commitment. Is that correct?

16 A Well, I, I don't know if advised is correct. We
17 engaged Mr. Kravetz, we consulted with him, and of course we
18 knew we were going to do some amendments. And among them,
19 among the things that I think he recommended was it would be
20 better if one of us would become sole general manager of that.
21 Due to our personal circumstances, I decided that I should be
22 the one, because I was going to leave the law practice anyway.
23 So to say that he advised me to do it, I don't think it's a
24 correct statement. I decided to do it that way.

25 Q Okay. Was there ever any thought to you taking on a

1 40-hours-per-week commitment and your son maintaining his 20-
2 hours-per-week commitment?

3 A No.

4 Q And why was that, if there is a reason?

5 A Because we agreed that he should just be totally out
6 of it and devote his time to the law practice. I would get
7 out of the law practice, go to the radio station, that would
8 be it.

9 Q Okay. Now, if you were staying, though, continuing
10 in the law practice, in any event, couldn't he have
11 nevertheless continued his intention to start a commitment at
12 a radio station, work at a radio station?

13 A I suppose he could have, but he didn't.

14 Q Okay. In your direct case exhibit, in Exhibit 2 on
15 page 2, can you turn to that, please?

16 A That's in the --

17 Q Your written testimony.

18 A Oh, deposition.

19 Q No, not your deposition, your written testimony.

20 A I don't have it before me.

21 JUDGE MILLER: Well, you don't have all -- There's
22 two exhibits, Exhibit Wilburn 1 and Wilburn 2.

23 WITNESS: I don't have them before me. And what
24 page was that?

25 BY MR. ALPERT:

1 Q I believe it was -- I said Exhibit 2 on page 2.
2 Actually, it starts at the beginning of the previous page.
3 A Okay, all right. I have Exhibit 2.
4 Q Okay. Now, do you see the top -- at the bottom of
5 page 1 and at the top of page 2 there's a sentence which
6 reads, "If the application is granted, I will also terminate
7 my current practice of law in Circleville, Ohio, and will
8 limit any other business activities to -- my commitment to the
9 station." Is that what it reads?
10 A That's what it says.
11 Q Okay. Now, here's my question. You referred to the
12 fact that you're fiduciary for certain other businesses a few
13 moments ago. Is that correct?
14 A Well, no. I --
15 Q You did testify that you're a fiduciary at the
16 present time to certain other businesses. Is that correct?
17 A In connection with my law practice.
18 Q That's --
19 A It's not a separate business, no.
20 Q Okay. But you're a fiduciary?
21 A Yes.
22 Q Right now? Now, when it says here that you would
23 limit your other business activity to -- with your, with your
24 commitment to the station, are those the other business
25 activities that you were referring to?

1 A No, because I include them as part of the law
2 practice.

3 Q Okay. What other business activities were you
4 referring to?

5 A None actually, because I don't have any other
6 business.

7 Q So what did you mean by this sentence, "I will limit
8 my other business activity -- "

9 A It's probably just a catch-all to say that I would
10 not engage in other businesses which would conflict with the
11 management of the station. In other words, it's a preventive
12 thing I presume. I don't have anything else that I would
13 label as a business.

14 Q Okay. What is your approximate current income at
15 your organization?

16 A It varies widely.

17 Q What -- During what -- Between what range has it
18 varied?

19 A Over the last 9, 10 years, since Bernard come in,
20 it's gone from a minimum of about 50 to a high of about
21 250,000 a year, in a year. It varies widely.

22 Q And that's based upon your income that you have --

23 A The law practice.

24 Q Fees that have come in in a given year?

25 A Yes.

1 Q And that is your portion of the --

2 A That's my, that's my half.

3 Q And your son has an equivalent --

4 A He does. We share equally.

5 Q Okay. Now, in the event you prevail on this
6 application and you break away from the law practice, would
7 you continue to share in any way in the profits of the law
8 practice?

9 A Not in any way except, as I said before, rents that
10 would come to the building. That would not be sharing in the
11 fees at all.

12 Q Now, right now you and your son work together on
13 cases on occasion. Is that correct?

14 A Yes.

15 Q You are the senior, more experienced member of the
16 two, so to speak, and he is a younger, less experienced
17 attorney.

18 A Yes.

19 Q Are there any occasions which you would continue to
20 -- which you would continue to provide assistance to your son
21 in the event he needs assistance after such a time as you were
22 to leave the law practice?

23 A As far as, you know, going to the office and helping
24 him work on a case, no, I wouldn't be doing that. If he
25 called me on the phone and asked me a question, asked my

1 opinion, certainly I would give it.

2 Q Well, in the event he'd need a co-counsel for a case
3 on some sort of short-term basis, you would refuse any request
4 that he might make?

5 A Oh, yes. Yeah. As a matter of fact, we frequently
6 hire co-counsel now.

7 Q Because you can't do it or because you won't do it?

8 A Because, because in a case where I do not feel
9 competent, I hire co-counsel.

10 Q On a case that you're competent to help act as co-
11 counsel?

12 A Then we don't hire outside counsel.

13 Q In that case, would you continue to provide
14 assistance to him?

15 A No.

16 MR. ALPERT: I have no further questions.

17 JUDGE MILLER: Mr. Yelverton.

18 MR. YELVERTON: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MR. YELVERTON:

21 Q Mr. Wilburn, I'm Stephen Yelverton, counsel for Ohio
22 Radio Associates, Incorporated. Mr. Alpert asked you about
23 your income from the law practice and you responded over the
24 past 9 or 10 years it had ranged from 50 some thousand to 250
25 some thousand. Is that correct?

- 1 A Yes.
- 2 Q What was your income from the law practice in 1992?
- 3 A I don't remember, but I think around 75,000.
- 4 Q And what was it in 1991?
- 5 A I don't remember. It's probably 60 to 75. I don't
- 6 recall exactly.
- 7 Q What years did you make 250 some thousand?
- 8 A 1993 has been the highest year.
- 9 Q Excuse me?
- 10 A 1993. And the year is not over yet.
- 11 JUDGE MILLER: This year?
- 12 WITNESS: Yes, this year.
- 13 BY MR. YELVERTON:
- 14 Q Okay. Also, I'd like to turn your attention to your
- 15 deposition of July 12th. Do you have a copy --
- 16 A I do.
- 17 Q -- before you? And I'd like to turn your attention
- 18 to page 18. And I believe you, you testified today in
- 19 response to a question about turning over the practice to your
- 20 son Bernard that it would be done in a 90-day period.
- 21 A Well, that's --
- 22 Q Is that your testimony?
- 23 A That would be an estimate on my part, yes, that it
- 24 would take 90 days to turn everything over, yeah.
- 25 Q Is it not a fact that at your deposition in response

1 to questions about turning over the practice to Bernard that
2 you said it would be a phase-out over a period of time?

3 MR. KRAVETZ: Objection, Your Honor, to selective
4 use of the deposition which improperly or incorrectly
5 characterizes the question and the prior response.

6 JUDGE MILLER: All right.

7 MR. YELVERTON: Your Honor, I think I'll just go
8 through the questions and answers.

9 MR. KRAVETZ: On page where?

10 MR. YELVERTON: Page 18.

11 MR. KRAVETZ: The questioning in pertinent part and
12 as to that specific question starts on page 17, and that's why
13 I believe it's misleading to pull out that --

14 JUDGE MILLER: All right. All right.

15 MR. YELVERTON: Okay. Well, let's start at --

16 JUDGE MILLER: In fact, this is a poor way to, to
17 handle a deposition, Mr. Yelverton. Let's keep the witness --
18 show him a copy of his deposition. You know, you know the
19 routine.

20 MR. YELVERTON: Your Honor, I was going to just do
21 that.

22 JUDGE MILLER: Now, if you're going to, if you're
23 going to use the deposition for any purpose, you're going to
24 accord the witness the full rights of what, what's going on.

25 MR. YELVERTON: Thank you, Your Honor.

1 BY MR. YELVERTON:

2 Q Mr. Wilburn, were you deposed on Monday, July 12th,
3 1993?

4 A Yes.

5 Q And did you review and read your deposition
6 transcript?

7 A I did.

8 Q And did you sign any type of certification that
9 these -- this -- these transcripts were true and accurate?

10 A I did.

11 JUDGE MILLER: Do you have a copy of that deposition
12 before you?

13 WITNESS: Yes, sir, I do.

14 JUDGE MILLER: All right, he has a copy before him,
15 so he doesn't need to be shown yours.

16 BY MR. YELVERTON:

17 Q Mr. Wilburn, would you look at page 17?

18 A Yes?

19 Q Line 20 and 21. Were you asked a question, "Do you
20 intend to withdraw from the practice of law?" Lines 20 and
21 21.

22 A Yes.

23 Q And at line 22 bottom of page 17, lines 1 and 2 top
24 of page 18, did you give the answer, "Yes. I intend to
25 withdraw from the practice whether or not I get this license.

1 It is just a question of timing." Did you --

2 A That's correct.

3 Q -- give that answer?

4 A Yes, I did.

5 Q Line 3, were you asked a question, "Do you intend to
6 get bought out?"

7 A Yes.

8 Q Did you give the answer on line 4, "From the
9 practice?" Line, line 4, "From the practice."

10 A Yes, as a question.

11 Q Line 5 you were asked a question, "From the
12 practice."

13 MR. KRAVETZ: Your Honor, this is one of the
14 problems. In fact, line 3 and line 5 were an interrupted
15 question with an interjection where the, where the respondent
16 supplied the second half of the question before the questioner
17 did. And I don't know whether this is clear to you, but it's
18 --

19 JUDGE MILLER: It's not very clear to me, but --

20 MR. YELVERTON: Well, Your Honor, this is just
21 leading up to, to the --

22 JUDGE MILLER: Well, you know, you know, let me say
23 something to you. I think, you know, you're going to come
24 down to an answer, and I, and I'll tell you right now that I
25 don't think that answer conflicts with anything the man has

1 said here on the stand. So I don't know what you're using the
2 deposition for.

3 MR. YELVERTON: Your Honor, I'm not suggesting that
4 it conflicts. I am suggesting that he gave a, a, a different
5 answer and that -- At the deposition he gave a very ambiguous
6 answer and here he gave a very specific, and the more --

7 JUDGE MILLER: Well, he probably didn't have a
8 judge. When you have a judge present, you get more specific.

9 WITNESS: Could I explain?

10 MR. KRAVETZ: Your Honor, if I, if I may question
11 about what kind of findings we're going to get from Mr.
12 Yelverton who says it doesn't conflict but it is different. I
13 don't know what the legal significance of that is.

14 MR. YELVERTON: Your Honor, all I'm saying is that
15 he gave an ambiguous answer at deposition.

16 JUDGE MILLER: Look, let's get this out of the road.
17 Read the question and answer, ask it -- Read the question and
18 answer and then ask him if that was the question he was asked
19 and ask him if that was the answer he gave.

20 MR. YELVERTON: Okay. Thank you, Your Honor.

21 BY MR. YELVERTON:

22 Q On line 7 and 8 were you asked a question, "When you
23 say quote phase-out unquote, do you mean a period of time?"

24 A That was what I said, but can I, can I explain?
25 Would you allow me to explain?

1 JUDGE MILLER: I'll let you -- I'm going to let you
2 explain it.

3 WITNESS: Okay.

4 BY MR. YELVERTON:

5 Q Were you asked that question?

6 A Yes.

7 Q Lines 9 and 10, did you give the answer, "Just
8 gradually turn as soon as Bernard can take over the work and
9 keep going."

10 A Yes, I did.

11 Q You gave that answer?

12 JUDGE MILLER: Does that complete your -- what
13 you're doing?

14 MR. YELVERTON: Yes, Your Honor.

15 JUDGE MILLER: All right. Do you want to explain
16 that?

17 WITNESS: Yes. In the deposition, the context is
18 different. I was asked are you going to sell out and I said
19 no, just gradually phase out. It did not have a time context.
20 Here, at this hearing, I was asked specifically how much time
21 and I said I would say no more than 90 days. But this has the
22 context of are you going to sell out and I said no, I'm not
23 taking money from Bernard to buy that practice, I'll just
24 phase out, meaning I'm not going to sell it to him. The
25 context is different.

1 JUDGE MILLER: All right. The explanation's on the
2 record. Proceed, Mr. Yelverton.

3 BY MR. YELVERTON:

4 Q Mr. Wilburn, at the time of the deposition, did you
5 have in mind any period of time this phase-out would take?

6 A Well, again, I, I would think 90 days would be
7 sufficient, knowing our circumstances.

8 Q But my question, Mr. Wilburn, is at the time of the
9 deposition did you have a specific time frame in mind?

10 A I don't remember what my thoughts were as to time
11 frames because I was thinking turning over, phase out, as
12 opposed to sell out. So I don't remember that I was thinking
13 time right then.

14 Q At the time of the deposition, had you determined
15 beforehand how long the phase-out would take?

16 A No, I --

17 Q Since the time of filing your application in
18 December 1991, have any efforts been made to hire an attorney
19 to assist Bernard Wilburn?

20 A No. That would be his job. He certainly knows
21 plenty of people he can hire.

22 Q But my question is have any efforts been made to
23 identify --

24 A No. No, I haven't made any. I haven't made any.

25 Q There's been previous testimony that Bernard Wilburn

1 | went to other files of some of the other applicants and
2 | retrieved a copy of their EEO program. Do you recall when
3 | this was done?

4 | A I don't recall whether it was before December 31,
5 | '91, or shortly after. It was right around the holidays,
6 | Christmas, New Year's, December of '91 and New Year's '92.

7 | Q It would not have been in February of '92?

8 | A I -- Not that I -- I don't know. I didn't go, but
9 | as I recall, it was sometime in January.

10 | MR. YELVERTON: Your Honor, I have no further
11 | questions.

12 | JUDGE MILLER: Let me see if I understand what's
13 | going on, Mr. Wilburn. And I -- See, I'm in kind of a
14 | parallel situation. I was born April 24th, 1928, and I have
15 | 36 years in the law practice, with the government. There came
16 | a time when you decided that it wasn't as much fun as it used
17 | to be and you had decided that you were going to retire.

18 | WITNESS: Yes, sir.

19 | JUDGE MILLER: And you're going to retire -- Really,
20 | you're going to -- you wanted to set up plans for your age 65,
21 | so that you could ease out, but you wanted something to keep
22 | you busy.

23 | WITNESS: Right. I don't intend to retire, I intend
24 | to change careers.

25 | JUDGE MILLER: Right. But, but the change of

1 careers doesn't necessarily have to involve either equal or
2 greater financial remuneration, because you're -- in that
3 sense, you're retiring.

4 WITNESS: That's right.

5 JUDGE MILLER: And --

6 WITNESS: It undoubtedly will be less pay.

7 JUDGE MILLER: It'll be less than 250,000, I can
8 tell you that. But, so you've been making certain specific
9 moves and trying to fall into this general plan that you're
10 going to retire at age 65.

11 WITNESS: That's right.

12 JUDGE MILLER: Isn't that what you've been doing?

13 WITNESS: That's correct. That is correct.

14 JUDGE MILLER: And so, so when you're talking to
15 Mr. Embrey, you're probably going to -- if things work out,
16 you're going to hand him quite a bit of responsibility.

17 WITNESS: That's right.

18 JUDGE MILLER: But you'll be there if --

19 WITNESS: I'll be in control.

20 JUDGE MILLER: If things go wrong, you'll be there.

21 WITNESS: Right.

22 JUDGE MILLER: If only as assistant manager.

23 WITNESS: That's correct.

24 JUDGE MILLER: Any redirect, Mr. Kravetz?

25 MR. KRAVETZ: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. KRAVETZ:

Q When you say you'll be there, I'm not talking about your original plans prior to the corporate reorganization. When you're going to be at the station, be there, at this point in what capacity?

A At this point, my plan would be to be the general manager and spend a minimum of 40 hours a week in that office.

Q Going back to your law practice and the time you brought Bernard in, at that point it was Weldon and Wilburn?

A Yes.

Q And Mr. Weldon had either died or retired?

A He had been deceased for three years at that point. When he died, Bernard started law school.

Q And after law school, Bernard came to work with you?

A Actually, yes, he worked with me even while he was in law school for summertime.

Q And at that time, the law practice was all yours?

A Yes.

Q And subsequently, it worked out that Bernard gets 50 percent of the proceeds?

A He was on salary for either four or five years, at which point we started splitting everything equally.

Q Does that mean you gave up control?

A Of the law firm?

1 Q Of the law firm.

2 A I don't know if I ever gave up control, but that's
3 the way we divide the profits. We haven't discussed --

4 Q No, what, what, what I'm asking is --

5 A Oh, yes, yes.

6 Q He got 50 percent of the money that comes in.

7 A Right.

8 Q Did he have to purchase --

9 A No, no.

10 Q You just at one point said okay, you get 50 percent
11 of the money?

12 A Right.

13 Q If there's a decision to be made, does he get 50
14 percent of the decision power on how the business is run?

15 A He probably would say no, but that's the way I
16 intend it.

17 JUDGE MILLER: That's more of a father/son
18 relationship --

19 WITNESS: Yes, it is.

20 JUDGE MILLER: -- than two attorneys, isn't it?

21 BY MR. KRAVETZ:

22 Q So as far as he's concerned and really as far as
23 you're concerned, as the father and as the elder and as the
24 original partner, if it came down to it you'd call the shots?
25 Assuming there's a difference.

1 A Assuming there's a difference of opinion?

2 Q Yeah.

3 A On something?

4 MR. ALPERT: Excuse me, Your Honor. I'm going to

5 object. It's a leading question.

6 JUDGE MILLER: I'll sustain the objection, Mr.

7 Kravetz.

8 BY MR. KRAVETZ:

9 Q In the event --

10 JUDGE MILLER: Keep in mind -- Never mind. I, I get

11 tired of saying this. I'm maybe doing you a favor.

12 MR. KRAVETZ: I was just thinking that, Your Honor.

13 JUDGE MILLER: Because, you know, one of the most

14 famous questions on cross examination is now, assuming that

15 this happened, would, you know -- And --

16 MR. KRAVETZ: Your Honor --

17 JUDGE MILLER: I've heard 1,000 of them.

18 MR. KRAVETZ: -- as part of my C element credit,

19 anyway.

20 BY MR. KRAVETZ:

21 Q Is there any restriction -- As an attorney now, you

22 have certain fiduciary responsibilities. Is there any

23 restriction on your resigning as fiduciary?

24 A No. There never would be.

25 Q Is there any restriction other than a court's formal

1 okay that you resign as -- from having a power of attorney?

2 A A court would not be in control of that.

3 Q Well, is there any restriction as far as --

4 A No, no.

5 JUDGE MILLER: The only time a court gets involved
6 is guardianships, right?

7 WITNESS: That's correct.

8 BY MR. KRAVETZ:

9 Q Now, you testified that you went to speak with
10 Ardeth Frizzell?

11 A Yes.

12 Q And you asked her, and tell me if I'm characterizing
13 testimony accurately, what it cost her or cost to run the
14 station that you eventually hope to obtain?

15 A Yes, I did.

16 Q And she gave you some figures?

17 A Yes, she did.

18 Q Did you simply adopt those figures or did you --

19 A No, I, I used them as a starting point and modified
20 them for other costs which I knew I would have that they
21 didn't have and arrived at my budget.

22 Q Now, you have a certain caseload and you've been
23 asked whether or not you would be turning over these cases to
24 Bernard. Will all of your cases continue for the indefinite
25 future or will some projects be completed?

1 A Well, of course, many, many of them have a
2 termination date. Some, some, like these business enterprise
3 we talked about, the powers of attorney or guardianships, will
4 continue indefinitely.

5 Q So if you didn't go after new work, new cases, would
6 your caseload decline in any event?

7 A It, it could decline dramatically in, in 90 days,
8 yes. I'm simply turning down cases.

9 Q Are you, are you aware of any requirement that you
10 report to the State of Ohio, Secretary of State, every
11 election or every change of corporate officers?

12 A The only, the only requirement that I'm aware of is
13 the annual filing of a franchise tax return, which they -- you
14 are required to list the, the officers. That's the only
15 requirement I'm aware of.

16 Q Now, this, this income in 1993 that you talked about
17 being substantially higher than your ordinary income?

18 A Yes.

19 Q Is that due to any special case or circumstance?

20 A Yes. It was a personal injury case.

21 JUDGE MILLER: Negligence, right?

22 WITNESS: Negligence.

23 BY MR. KRAVETZ:

24 Q So it was a one-time contingency?

25 A Yes.

1 MR. KRAVETZ: No further questions, Your Honor.

2 JUDGE MILLER: All right. Now, let me just --
3 Mr. Kravetz asked you about your -- whether your workload
4 would diminish. Now, when you're guardian, your guardianships
5 would terminate on the death of the person who you've been the
6 guardian.

7 WITNESS: Right, right.

8 JUDGE MILLER: And that could happen in --

9 WITNESS: Anytime.

10 JUDGE MILLER: -- tomorrow or 25 years?

11 WITNESS: Sure.

12 JUDGE MILLER: You know powers of attorney can be
13 turned over at the election of a person who --

14 WITNESS: That's right.

15 JUDGE MILLER: -- gives you the power. Wills, once
16 they're probated -- They may take a little while getting
17 probated, but once they're probated that ends -- that would
18 end your term --

19 WITNESS: Right.

20 JUDGE MILLER: So your termination would be like any
21 other general practitioner's?

22 WITNESS: Right. That's correct.

23 JUDGE MILLER: Recross, Mr. Koerner?

24 MR. KOERNER: I think not, Your Honor.

25 JUDGE MILLER: Mr. Alpert?

1 MR. ALPERT: No questions, Your Honor.

2 JUDGE MILLER: Mr. Yelverton?

3 MR. YELVERTON: No questions, Your Honor.

4 JUDGE MILLER: Mr. Charles W. Wilburn, you're
5 excused and thank you for testifying.

6 WITNESS: Thank you very much.

7 MR. KRAVETZ: And I will ask for a brief recess to
8 get Bernard Wilburn.

9 JUDGE MILLER: Just a couple of minutes. Yeah,
10 we'll go off the record for a couple of minutes till he gets
11 his --

12 (Whereupon, a brief recess was taken.)

13 JUDGE MILLER: Call your next witness, Mr. Kravetz.

14 MR. KRAVETZ: Your Honor, I call Bernard Wilburn.

15 JUDGE MILLER: Bernard Wilburn, raise your right
16 hand.

17 Whereupon,

18 MR. BERNARD WILBURN

19 having first been duly sworn, was called as a witness herein
20 and was examined and testified as follows:

21 JUDGE MILLER: Have a seat, sir.

22 WITNESS: Thank you.

23 JUDGE MILLER: Again, for the record, this witness
24 is being produced pursuant to notification and not because of
25 any direct testimony that he has given.